

INTERNAL REVENUE SERVICE  
District Director  
2 Cupania Circle  
Monterey Park, CA 91755

DEPARTMENT OF THE TREASURY  
Western Key District

Date: NOV 23 1993

Employer Identification Number:  
[REDACTED]

Case Number:  
[REDACTED]

Person To Contact:  
[REDACTED]

Telephone Number:  
[REDACTED]

Refer Reply to:  
[REDACTED]

CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of exemption under section 501(c)(7) of the Internal Revenue Code.

FACTS:

The information submitted indicates that you were incorporated on [REDACTED]. You state that for the period [REDACTED] you were an "unorganized group of collectors." Your Articles of Incorporation provide that you are organized for social purposes as set forth in section 501(c)(7) of the Internal Revenue Code.

You are a membership organization. Article III of your Bylaws states that the purposes of your club are charitable and educational. You plan to "promote, foster and encourage activities toward the betterment of bottle collection, and other collectibles, to better facilitate the exhibiting, displaying, trading, promoting and researching our collectibles." Dues for a single membership are \$[REDACTED], dues for a family membership are \$[REDACTED], and there are no dues required of honorary or life membership. As of the date of your application, there were [REDACTED] individual memberships, [REDACTED] family memberships, no honorary and one lifetime memberships. Your [REDACTED] newsletter states that your current membership is [REDACTED] with [REDACTED] new show vendors. Show vendors are dealers who participate in the annual collectibles show.

Your primary activities are an annual collectibles show, educational trips, and monthly meetings. The annual collectibles show is held for the purpose of "organization fundraising, socialization, recreation and pleasure by the members." Members and non-members are allowed to purchase tables at the show so that they can exhibit and sell their collectibles. Sellers are allowed to retain the proceeds from the sale of their collectibles. Your club does not retain a commission on the sale of collectibles by your members or non-members. For [REDACTED], the cost of a table was \$[REDACTED] (maximum [REDACTED] tables) for members and non-members. You state that the majority



In response to our request for additional information regarding the [REDACTED] show, you state that you received \$[REDACTED] from the sale of dealer tables and \$[REDACTED] from general admission proceeds. In your application you estimated that you would receive \$[REDACTED] in member dues and \$[REDACTED] in raffle income for [REDACTED].

You conduct approximately four educational trips a year. During the trips, members visit museums, participate in tours and have the opportunity to go digging for relics. These activities are open to members. Members and guests may attend if space permits.

**You submitted the following financial information with your application:**

Show Tables  
Admissions  
Raffle Income  
Member Dues  
**TOTAL**

Annual Show  
Contributions  
Occupancy  
Member Expenses:  
Holiday Party  
Prizes  
Newsletter  
Books  
Educational  
**TOTAL.**



## ISSUES:

Is the organization organized and operated substantially for pleasure, recreation, and other non-profitable purposes and of which no part of the net earnings inures to the benefit of its members?

Does the organization receive more than 35 percent of its gross receipts from non-members?

Do vendors who only partake in the annual collectibles show satisfy the commingling criteria of a social club described in section 501(c)(7)?

## LAW:

Section 501(c)(7) of the Code exempts from Federal income tax, clubs organized and operated for pleasure, recreation, and other non-profitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder.

Section 1.501(c)(7)-1(b) of the regulations provides, in part, that a club which engages in a business, such as making its social and recreational facilities available to the general public, is not organized and operated for pleasure, recreation, and other non-profitable purposes. Solicitation by advertisement or otherwise for public patronage is prima facie evidence that a club is engaging in a business and is not operated substantially for pleasure, recreation, or social purposes.

The Committee Reports of Public Law 84-568 state that social clubs may receive up to 35 percent of their gross receipts, including investment income, from sources outside their membership without losing their exempt status. Non-member income from the use of club facilities or services is limited to 15%. The Committee Reports provide that gross receipts include charges, admissions, membership fees, dues, assessments, investment income, and normal recurring capital gains on investments, but excluding initiation fees and capital contributions.

Revenue Ruling 58-589, 1958-2 C.B. 266 lists the criteria or tests for determining whether an organization qualifies for exemption under section 501(c)(7) of the Code. The ruling states that an organization must establish (1) that it is both organized and operated for pleasure, recreation and other non-profitable purposes and (2) that no part of its net earnings inures to the benefit of any private shareholder or individual. The ruling further states that to meet the first requirement, there must be an established membership of individual, personal contacts and fellowship. A commingling of the members must play a material part in the life of the organization. The ruling also states that to qualify for income tax exemption, a social club should not advertise its facilities for nonmember patronage as this would be prima facie evidence it was engaging in a business.

Revenue Ruling 65-63, 1965-1 C.B. 240, describes an organization which conducted sports car events for the pleasure and recreation of its members. The organization's events were open to the general public for a fee on a recurring basis and which solicited patronage of its events by



advertising. The income from public admission and sale of programs was used to cover race expenses, improve fencing enclosures, acquire safety and timing equipment and pay liability insurance. In concluding that the organization did not qualify for exemption under section 501(c)(7), the ruling stated that public patronage or participation in club activities is permissible if incidental to and in furtherance of the club's purpose and if the net income from the activities did not inure to its members. The ruling noted that the public's use of the organization's facilities were of such a magnitude and recurrence as to constitute a business activity and that the club's use of the income derived from the activity helped to acquire additional assets and pay club expenses normally borne by its members.

Revenue Ruling 68-119, 1968-1 C.B. 119, describes a social club that was organized to promote the enjoyment of equestrian events. In addition to its regular activities, the club held an annual one-day steeplechase meet. The meet was held on privately owned grounds and the course was reconstructed each year by its members. The meet was open to the general public who paid the same admission fees and entry fees as the club's members. The club distributed any net proceeds from the event to charity. The ruling held that a club will not jeopardize its exemption under section 501(c)(7) if it derives income from transaction with nonmembers or the general public provided such participation is incidental to and in furtherance of the club's purposes and the income therefrom does not inure to its members.

Revenue Ruling 68-638, 1968-2 C.B. 220, held that a country club that hosted an annual golf tournament that was open to the general public for a fee and who used the net income from the tournament for club purposes, did not qualify for exemption under section 501(c)(7) of the Code. During the annual golf tournament the club derived substantial receipts from admission fees, broadcasting rights, parking fees and food and beverage concessions. The ruling held that the club was not exempt from Federal income tax under section 501(c)(7) as it engaged in a business with the general public by conducting the annual golf tournament to which the general public attended for a fee and because the income from the tournament inured to the benefit of the members in the form of improved facilities and increased services.

#### ANALYSIS AND CONCLUSION:

You list the annual collectibles show as your primary activity and your primary source of income. The income you earned from the show attributed to approximately 35 percent (\$10,000) of your revenue for that year. Your estimated budget for 1971 also indicates that you expect to receive approximately 35 percent of your revenue from the collectibles show. You state that the majority of the tables sold for the show were to non-members and it appears that the majority of the admissions income was also from non-members. Therefore, it appears that you received over 35 percent of your income from non-members during 1970. You state that you have revised your regulations regarding sellers attending the annual collectibles show to remain within the 35 percent gross receipts limitation. However, your advertisements for the year 1970 show state that there are 100 tables available for sale which would accommodate a substantial amount of vendors over and above your current membership. In addition, your budgets for the 1970 show indicates that you spent twice as much for national advertising of the show as you did for local advertising. There does not appear to be any attempt on the part of



your organization to limit the number of non-member vendors who purchase sale tables at the annual show. Therefore, it does not appear that your organization will limit the amount of gross receipts it receives from non-members to the requisite 35 percent. In addition to the non-member income you receive from the sale tables, you also receive additional non-member income from the gate admissions to the general public.

The advertisement for your year [REDACTED] show states that nonmembers must pay \$[REDACTED] for their first table while members pay \$[REDACTED]. Nonmembers are informed that they can use the additional \$[REDACTED] for a one person, one year membership. It does not appear that a vendor, who purchases a one-year membership in this manner, will also participate in your monthly meetings and educational tours. As stated in Rev. Rul. 58-589, in order to establish that a club is both organized and operated as a social club, there must be an established membership of individuals, personal contacts and fellowship. The ruling states that a commingling of members must play a material part in the life of the organization. It appears from the ruling that this commingling should take place on a regular basis as opposed to a one-time yearly event. Therefore, you cannot include vendors who attend only one event a year as members for purposes of categorizing their income as member versus non-member. The amount these vendors pay for their tables should be classified as non-member income for purposes of the 35 percent gross receipts test.

You are distinguishable from the organization described in Rev. Rul. 68-119. The organization described in this ruling charged the same admission and entry fee for members and nonmembers. The general expense of the meet were met through admission charges and the sale of programs and refreshments. The net proceeds were distributed to charity. Your organization uses the income generated from the collectibles show for the social and recreational activities of your organization's members. Your budgets show that you expect to receive approximately \$[REDACTED] in member dues and \$[REDACTED] from member raffles. Your budgets project that you will need approximately \$[REDACTED] for member activities. Therefore, it does not appear that member generated income will pay for your member's activities and that you will have to rely on monies generated from non-member sources.

A club will not be denied exemption from Federal income tax because it receives income from the general public provided that such participation is incidental to and in furtherance of the club's social activities and the income from which does not inure to the benefit of club. As your annual collectibles show is primarily attended by non-members and the income generated from the show is used for your member activities, we conclude that non-member participation is not incidental to your club's purposes. Your activity of conducting an annual collectibles show whereby members and non-members alike can sell their collectibles is further evidence that you are not operating for the purpose of "pleasure, recreation, or other nonprofitable purposes as stated in section 501(c)(7) of the Code.

The Committee Reports of P.L. 94-568 state that social clubs may receive up to 35 percent of their gross receipts from sources outside their membership without losing their exempt status. As you have received and plan to receive over 35 percent of your gross receipts from non-members in the form of table sales and gate admissions, you do not qualify for exemption under section 501(c)(7) of the Code.



Therefore, we conclude that you do not qualify for exemption under section 501(c)(7) of the Code.

If you are in agreement with this proposed determination, we request that you sign and return the enclosed Form 6018. Please note the instructions for signing on the reverse side of the form.

If you are not in agreement with this proposed determination, we recommend that you request a hearing with our office of Regional Director of Appeals. Your request for a hearing should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a hearing. The hearing may be held at the office of Regional Director of Appeals, or, if you request, at a mutually convenient District office.

Sincerely,



Steven A. Jensen  
District Director

cc [REDACTED]

Enclosures:

Form 6018

Notice 1214

Publication 892